IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
Writ Petition No.8037 of 2005

Shri Prakash Vasudeo Deodhar,)
Age 55 years, Adult,)
Occupation : Agriculturist,)
Resident at Plot No.22,)
Middle Class Housing Society,)
Panvel, District - Raigad -410 206.).. Petitioner

Vs.

1. The Special Land Acquisition)
Officer (Minor Irrigation),)
Raigad-Alibag, Alibag.)

2. The State of Maharashtra.).. Respondents

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Shri S.M.Kamble for the petitioner.

Shri R.M.Patne, AGP for the respondents.

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CORAM : R.M.S.KHANDEPARKAR &
SMT.ROSHAN DALVI, JJ.

DATED : 16TH JUNE, 2006

ORAL JUDGMENT : (Per R.M.S.Khandeparkar, J)

1. Heard. Rule. By consent, the rule is made returnable forthwith.

2. By the present petition, the petitioner challenges the order dated 13th June, 2003 passed by the respondent No.1 and simultaneously seeks direction for construction of a permanent Asphalt Road for

approaching the remaining areas of land of the petitioner.

3. As regards the challenge to the order dated 13th June, 2003, it is the contention of the petitioner that the Notification under Section 4 of the Land Acquisition Act, 1894, thereinafter called as "the said Act", was issued on 16th January, 2001, it was published on 21st March, 2001, and considering the provisions of Section 23(1A) of the said Act, along with the day of declaration of the award under Section 11, which was 7th October, 2002, the respondents ought to have calculated the interest in terms of the said provisions for a period of 630 days instead of 566 days, as has been calculated by the respondents.

4. It is not in dispute that the Notification under Section 4 was issued on 16th January, 2001. However, it is also not in dispute that the last date of publication of the said notification was 21st March, 2001. Considering the last date of publication of the notification under Section 4 to be the 21st March, 2001 and that the award under Section 11 was declared on 7th October, 2002, the period spent in between was of 566 days. Indeed, the authorities have calculated the interest for a period of 566 days. The

period for calculation of interest under Section 23(1A) of the said Act would commence from the last date of publication of the notification under Section 4. The expression "publication" under Section 4 has been settled to be the last day of publication of such notification by catena of decisions of this Court as well as of the Apex Court. The same meaning will have to be given to the said expression under Section 23(1A) of the said Act. We do not find any justification to give any meaning to the said expression in the said Section different from what is understood under Section 4 itself. The presumption is that unless the context requires otherwise, same word in different sections of the same statute would convey the same meaning throughout. Nothing is brought to our notice that the expression "publication" in Section 23(1A) has been used in any different context than the one used in Section 4 of the said Act. Being so, no fault can be found with the authority rejecting the application filed by the petitioner for correction of the award.

5. As regards the second point raised in the petition, the question of grant of relief in the nature asked for does not arise in the writ jurisdiction, besides, the matter involves disputed

question of facts. For that purpose, the petitioner has alternative efficacious remedy available to him, and therefore, there is no question of grant of such relief in writ jurisdiction.

6. The petition, therefore, fails and is hereby dismissed. The rule is discharged with no order as to costs.

(R.M.S.KHANDEPARKAR, J)

(SMT.ROSHAN DALVI, J)